



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार, 1 अक्तूबर, 2005/9 आश्विन, 1927

हिमाचल प्रदेश सरकार

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

Shimla – 2, 26 September, 2005

No. HPERC/ 421.—The following draft regulations, which the Himachal Pradesh Electricity Regulatory Commission proposes to make in exercise of the powers under clauses (zd) and (zf) of sub-section (2) of section 181 read with sub-section (3) of sections 32, clause (d) of

sub-section (2) of section 39, sub-clause (i) of clause (c) of section 40 and sections 61 and 62 of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that behalf, are hereby published, as required by sub-section (3) of Section 181 of the said Act, for the information of all the persons likely to be affected thereby; and, notice is hereby given that the said draft regulation will be taken into consideration after the expiry of thirty days from the date of their publication in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may within the aforesaid period be received in respect thereto.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Keonthal Commercial Complex, Khalini, Shimla-171002

DRAFT REGULATIONS

PART-I – PRELIMINARY

1. Short title, extent and commencement.—(1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Transmission, wheeling, SLDC and intervening facilities charges) Regulations, 2005.

(2) These regulations shall be applicable to any person engaged in the business of transmission or wheeling of electricity, in the State of Himachal Pradesh.

(3) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Definitions .—(1) In these regulations, unless the context otherwise requires, —

- (a) “Act” means the Electricity Act, 2003 (36 of 2003);
- (b) “access agreement” means an agreement entered into between a transmission licensee and an applicant to avail open access to the licensee’s network for transmission of electricity;
- (c) “availability” in relation to a transmission system for a given period means the time in hours during that period the transmission system is capable to transmit electricity at its rated voltage and shall be expressed in percentage of total hours in the given period;

- (d) "Commission" means the Himachal Pradesh Electricity Regulatory Commission;
- (e) "Conduct of Business Regulations" means the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2005;
- (f) "Grid Code" means the Grid Code specified by the Central Commission under clause (h) of sub-section (1) of section 79 of the Act and includes the State Grid Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act or deemed approved under clause (b) of Section 172 of the Act ;
- (g) "licence" means a licence granted under section 14 of the Act to transmit electricity within the State of Himachal Pradesh and shall include the deemed licence;
- (h) "licensee" means a person who is granted a licence or is a deemed licensee under section 14 of the Act;
- (i) "long-term transmission customer" means a person availing or intending to avail access to the intra-state transmission system for a period of five years or more;
- (j) "other business" means any business of the transmission licensee other than the licensed business of intra-State transmission; and
- (k) "short-term transmission customer" means a transmission customer other than the long-term transmission customer.

(2) Words and expressions used and not defined in these regulations but defined in the Act shall have the meanings as assigned to them in the Act.

PART-II-TRANSMISSION, WHEELING AND INTERVENING FACILITIES CHARGES

3. Tariff determination by bidding process.—Notwithstanding anything specified in these regulations, the Commission shall adopt the tariff if such tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Electricity Regulatory Commission.

4. Periodicity for determination of transmission/wheeling charges .- (1) The charges for a licensee shall be determined every year and shall not be ordinarily amended more than once in a year.

(2) Subject to other provisions of these regulations, the charges allowed, revenue permitted and expenses assessed for any financial year, shall be subject to adjustments in any charge to be fixed for the subsequent period, if the Commission is satisfied, that such adjustments for the excess amount or shortfall in the amount actually realized or expenses incurred is necessary and justified.

5. Petition for determination of transmission/wheeling charges .—(1) Every Licensee shall submit a petition to the Commission for determination of transmission charges or wheeling charges on an annual basis or as frequently as desired by the Commission, duly following the procedure as laid down in the Conduct of Business Regulations.

(2) The petition by a licensee for determination of charges shall be accompanied by information in formats specified by the Commission in tariff guidelines, as amended from time to time. The information for the previous period(s) should be based on audited accounts and periods for which audited accounts are not available, un-audited accounts should be filed :

Provided that, in the absence of information filed by the licensee, the Commission, if it so desires, may initiate suo-moto proceedings for determination of charges.

(3) The petition for determination of transmission charges or wheeling charges shall contain detailed justification for incurrence or proposed incurrence of each cost item forming part of the Annual Revenue Requirement.

6. Orders by the Commission.—(1) The Commission may require the licensee to furnish any further information, particulars, documents, public records etc as the Commission may consider appropriate to enable it to assess the petition.

(2) The Commission shall analyse the petition submitted by the licensee and assess the prudence of the costs and revenue items incurred or proposed to be incurred duly taking into account the petitioner's justifications, the objections to the petition and information from other sources, if sought by the Commission.

(3) The Commission, after completing all proceedings related to tariff determination in accordance with the Conduct of Business Regulations shall issue an Order on transmission charges or wheeling charges within 120 days of its acceptance of the petition filed by the Licensee.

7. Publication of transmission/wheeling charges.—The licensee shall within the time given in the order of the Commission, publish the salient features of charges, in two daily newspapers, one each in Hindi and English, having wide circulation in its licensed area. The charges so determined by the Commission shall come into force from the applicable date as given in the

Commission's Order and shall remain in force until any amendment to the charges is approved by the Commission.

8. Communication of Order.—The Commission shall, within seven days of making the Order, send a copy of the Order to the Government of Himachal Pradesh, the Central Electricity Authority, concerned Licensees and Generating Companies. The Commission shall also make available copy of the said order to any person on payment of a fee as specified under sub-regulation (9) of regulation 24 of the Conduct of Business Regulations.

9. Refund of excess amount.—The licensee shall recover the charges as determined by the Commission. If any Licensee recovers charges exceeding those determined by the Commission, the excess amount shall be refunded to the person who has paid such excess charges, alongwith interest equal to the prevalent short term Prime Lending Rate of the State Bank of India without prejudice to any other liability incurred by such licensee.

10. Target availability for recovery of full transmission charges.—The target availability for recovery of full transmission charges shall be,—

(1) Alternating Current (AC) System: 98% ;

(2) High Voltage Direct Current (HVDC) bi-pole links and High Voltage Direct Current (HVDC) back-to-back stations: 95%

Note:—Recovery of fixed charges below the level of target availability shall be on pro rata basis. At zero availability, no transmission charges shall be payable.

11. Gross Annual Revenue Requirements.—(1) The charges for transmission or wheeling of electricity shall comprise of the recovery of annual transmission or wheeling charges consisting of the following items:-

- (a) operation and maintenance expenses;
- (b) interest and financing cost on loan capital;
- (c) depreciation, including Advance Against Depreciation;
- (d) return on equity; and
- (e) interest on working capital :

Provided that till such time that the State Load Despatch Centre (SLDC) is a part of the State Transmission Utility (STU), the State Transmission Utility (STU) shall submit the

information on the cost items separately for the transmission business and the State Transmission Utility business and the State Load Despatch Centre (SLDC) business.

12. Operation and Maintenance cost .—(1) Operation and maintenance costs shall comprise of the following:—

- (a) salaries and wages and other employee expenses;
- (b) repairs and maintenance;
- (c) administrative and general costs, and
- (d) other miscellaneous expenses, e.g. legal charges, audit fees, lease charges, rents, rates and taxes, etc.

(2) In its petition for determination of charges, the licensee shall submit details of operation and maintenance cost incurred in the previous year and that in the current year, together with the proposals for the ensuing year in complete detail and with appropriate justification, for the approval of the Commission :

Provided that, in order to support its system improvement initiatives, or to rectify any specific shortcomings, etc., the licensee can propose for inclusion of an additional amount over the approved value of operation and maintenance costs during the year. This proposal will be supported by a detailed justification of the specific requirement and any such proposal shall not be admitted by the Commission more than once in any year.

(3) The Commission will finalise, in consultation with the licensee(s), a mechanism to assess the condition of assets on a regular basis, to safeguard against any deliberate under-spending in maintenance and upkeep of the network. To facilitate this, the licensee must finalise preparation of asset register.

13. Asset Base.—(1) The Commission shall determine the Asset Base at the beginning of a financial year, which shall be,—

Sum of:

(A) The Asset Base approved in the previous Order, adjusted for—

- (i) Actual completed cost being lower than that approved in such Order;
- (ii) Cost of schemes or part thereof not completed;
- (iii) Schemes undertaken on account of certain uncontrollable factors such as changes in law or policies, to meet any emergency, etc, supported by adequate justification.

(B) Proposed investment plan, to the extent expected to be capitalised during the year, covering (a) schemes for which Commission's approval has been granted, (b) schemes which have been submitted for Commission's approval and (c) schemes not requiring Commission's approval.

Less:

(C) Assets proposed to be retired during the year

(2) The interest on loan capital and return on equity shall be computed on the financing of the cost of schemes included in the asset base as computed under sub-regulation (1).

14. Interest on loan capital .- (1) Interest on loan capital shall be computed loan-wise on the loans approved for the Asset Base. For each loan, the loan outstanding at the beginning of a financial year shall be worked out as gross loan minus cumulative repayments :

Provided that any deviations from the financing arrangements, including the interest rates, the moratorium period, the term of loan, schedule of repayment, etc., shall not be considered if it results in an increase in charges to be paid by the users.

(2) The licensee shall make every effort to reduce its interest cost by financial management such as swapping of loans leading to lower interest costs, any other financial restructuring, etc. and any benefit on account of these shall be shared in the ratio of - 1/3rd with the users, 1/3rd with the licensee and 1/3rd in the Contingency Reserve. The licensee shall submit the calculation of such benefit to the Commission for its approval.

(3) In respect of foreign currency loans, variation in rupee liability due to foreign exchange rate variation, towards interest payment and loan repayment actually incurred, in the relevant year shall be admissible; provided it directly arises out of such foreign exchange rate variation and is not attributable to the licensee or its suppliers or contractors.

15. Depreciation.— (1) Depreciation shall be computed in the following manner:—

- (a) depreciation shall be calculated on the original cost of the fixed assets as at the start of a Financial Year;
- (b) the licensee shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification in the Official Gazette, lay down from time to time;

- (c) depreciation shall be charged from the first year of operation of the asset. In case, the operation of the asset is for the part of the year, depreciation shall be charged on a pro rata basis.

(2) In a year, if the total loan repayment (subject to 1/10th of the loan amount) is expected to exceed the total allowed depreciation, the licensee may request the Commission for admitting such difference as an Advance Against Depreciation (AAD).

16. Return on equity.—(1) Return on equity shall be computed on the paid up equity capital and shall be post tax, as specified by Central Government from time to time for Transmission and Distribution Licensees.

(2) The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserves, if any, shall also be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure in the Asset Base.

(3) Equity invested in foreign currency shall be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian rupees based on the exchange rate prevailing on the due date of billing.

17. Interest on working capital loans.—(1) Working capital shall include:—

- (a) operation and maintenance expenses for one month;
- (b) maintenance spares @ 1% of the historical cost escalated @ 6% per annum from the date of commercial operation; and
- (c) receivables equivalent to two months of transmission charges calculated on target availability level or wheeling charges.

(2) Rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India. Interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency.

18. Other Income.—(1) All income derived by the licensee from the following sources shall constitute 'Other Income' of the Licensee:—

- (a) interest income from investments not appropriated back to Contingencies Reserve;
- (b) interest income from other investments, fixed and call deposits and bank balances;

(c) rents;

(d) share of the licensed business from Other Business, if any;

(e) any other income incidental to the electricity business.

(2) The amount under Other Income shall be deducted from the gross Annual Revenue Requirement determined under regulation 11.

19. Net Annual Revenue Requirement.—The Net Annual Revenue Requirement of the licensee eligible for recovery shall be determined after deducting from the Gross Annual Revenue Requirement determined under regulation 11, the Other Income determined in accordance with regulation 18.

20. Wheeling Charges.—The Wheeling charges payable by the user of the distribution system shall be determined in accordance with the following formula:—

Wheeling Charges = Cost of the Distribution Licensee till 11 kV and above/Annual Energy Handled in the Distribution System:

Provided that Wheeling Charges calculated under this regulation will not exceed to 12 paisa per unit of wheeled energy.

21. Transmission charges.—(1) The Transmission charges payable by a Long-Term Transmission Customer shall be determined in accordance with the following formula:

$$MLTC = \{[(\text{Net ARR of the Transmission Licensee}/12) - 0.75 * STI - ITFI]/TCL_{LT}\} * CL$$

Explanation.—For the purpose of this regulation,—

(a) “MLTC” means Monthly Long-Term Transmission Charge in Rs./month ;

(b) “Net ARR” means Net Annual Revenue Requirement as determined in regulation 20;

(c) “STI” means Income from Short-Term customers of the Transmission network, for the month, determined under sub-regulation (2) ;

(d) “ITFI” means Income from provision of Intervening Transmission Facilities, for the month, determined under regulation 22 ;

- (e) "CL" means Contracted Capacity of the Transmission system by the Long-Term Transmission Customer;
- (f) "TCL_LT" means Total Contracted Capacity of the Transmission system by all Long-Term Transmission Customer;
- (g) "Av_CAP" means the average capacity in MW/MVA served by the intra-State transmission system of the transmission licensee in the previous financial year and shall be the sum of the generating capacities connected to the transmission system and contracted capacities of other long term transactions handled by the system of the transmission licensee;

Provided that Transmission Charges calculated under sub-regulation (1) will not exceed to Rs. 40/KW/month.

(2) Transmission charges payable by a Short-Term Transmission Customer shall be calculated in accordance with the methodology as specified in the HPERC (Terms and conditions for Open Access) Regulations 2005, namely :—

$$ST_RATE = 0.25 \times [TSC / Av_CAP] / 365$$

Explanation.—For the purpose of this sub regulation ,—

- (a) ST_RATE means the rate for Short-Term Customer in Rs per MW/MVA per day; and the "ST_RATE" shall be calculated and applied for transmission system of the State Transmission Utility or any other transmission licensee forming part of the intra-State transmission system;
- (b) "TSC" means the annual transmission charges or annual revenue requirement on account of the transmission system for the previous financial year as determined by the Commission.

(3) The transmission charges payable by a short-term customer in case of uncongested transmission corridor shall be levied as under, namely :—

- (a) upto 6 hours in a day in one block = 1/4th of ST_RATE
- (b) more than 6 hours and upto 12 hours in a day in one block = ½ of ST_RATE
- (c) more than 12 hours and upto 24 hours in a day in one block = ST_RATE;

(4) If the transmission system belongs to the State Transmission Utility, 25% of the charges collected from the short term customers for use of its intra-State system shall be retained by the State Transmission Utility and the remaining part of these charges shall be adjusted towards reduction in the transmission charges payable by the long term customers.

22. Charges for intervening transmission facilities.—(1) The rates and charges for intervening transmission facilities, if any, provided by the licensee shall be as mutually agreed between the licensee and the users of such facilities:

Provided that the rates and charges agreed upon under sub-regulation (1) shall be fair and reasonable and may be allocated in proportion to the use of the transmission facilities.

(2) The parties concerned shall be at liberty to approach the Commission in case of any genuine dispute regarding the extent of surplus capacity available, as provided for in section 35 of the Act. Similarly, in case of a dispute on rates, it shall also be determined by the Commission in accordance with the following procedure:—

- (a) an application shall be made to the Commission for an Order requiring any other licensee owning or operating intervening transmission facilities to provide their use to the extent of surplus capacity available with it;
- (b) after an order is passed as above under section 35 of the Act, the concerned licensee shall provide his intervening transmission facilities at rates, charges and terms and conditions as may be mutually agreed upon under section 36 of the Act.

(3) Mutual agreement on these matters would be in the best interest of the parties. In case, such agreement cannot be reached within a reasonable period of time, either party is entitled to approach the Commission for determination under the proviso to sub-section (1) of Section 36 of the Act and the Commission would expect evidence that negotiations have been held in good faith and all reasonable efforts have been made to arrive at mutual agreement.

23. Applicability of charges for different users.—(1) The wheeling charges shall be applied uniformly to all users irrespective of location and quantum of power transmitted.

(2) The transmission charges shall be applied uniformly to all users irrespective of location and quantum of power transmitted, depending upon the category of open access i.e. short term or long term.

24. Incentive on Transmission Charges.—(1) The transmission licensee shall, on achieving annual availability beyond the target availability as per regulation 10, be entitled to incentive in accordance with the following formula:—

- a.
$$\text{Incentive} = \text{Annual Transmission Charges} \times [\text{Annual availability achieved} - \text{Target Availability}] / \text{Target Availability};$$

Explanation :— For the purpose of this sub-regulation : no incentive shall be payable above the availability of 99.75% for Alternating Current (AC) 98.5% for High Voltage Direct Current (HVDC)

system. Incentive shall be shared by the long-term customers in the ratio of their average allotted transmission capacity for the year.

PART-III- STATE LOAD DESPATCH CENTRE FEES AND CHARGES

25. Levy and collection of fee and State Load Despatch Centre Charges .—(1)

The State Load Despatch Centre shall maintain its financial account separately and account its all expenses incurred separately. If State Transmission Utility is operating the State Load Despatch Centre, the account related with the State Transmission Utility shall be maintained separately by State Transmission Utility.

(2) The Generating Companies and licensees engaged in intra-state transmission of electricity in the State intending to get connected to the State Grid shall submit an application to the State Load Despatch Centre in the specified format given in Annexure A at least one month before the proposed date of connection to the State Grid, along with fee of Rs. One Lakh.

(3) The existing Generating Companies and licensees engaged in intra state transmission of electricity connected to the State Grid shall register themselves with State Load Despatch Centre by filing an application alongwith the above-mentioned fees within a month of coming into force of these regulations.

(4) The State Load Despatch Centre after scrutinising the application and after being satisfied of the completeness and correctness of the information furnished in the application, shall register the application in State Load Despatch Centre records duly intimating the applicant regarding the acceptance and file a copy with the Commission. State Load Despatch Centre shall file information about the Generating Companies and Licensees engaged in the intra- state transmission of electricity connected to the State Grid and being monitored/ serviced by them to the Commission every year by November 15th.

(5) The State Load Despatch Centre to be recovered from the Generating Companies and Licensees engaged in intra state transmission of electricity shall be determined taking into account the expenses as detailed in regulation 11.

26. Basis for collection of State Load Despatch Centre Charges.—(1) The annual State Load Despatch Centre shall be arrived at in accordance with the Annual ARR calculations detailed in regulatoin 19 and shall first be divided into two equal parts – one to be recovered from the generating companies and the other from the licensees engaged in intra-state transmission of electricity within the State.

(2) Thereafter, the allocation of charges to the individual Generating Companies shall be on the basis of installed generation capacity. The allocation of charges to individual licensees

engaged in intra-state transmission of electricity within the State shall be on the basis of the volume of energy wheeled through the transmission network.

27. Application for determination of fees and charges.—(1) Each year, by September 15th, the State Load Despatch Centre shall file with the Commission, an application / petition as specified by the Commission in the 'Guidelines and Formats for Tariff Application Regulations, 2005' for determination of fees and charges for the ensuing year.

(2) The application for 'Fees and Charges' recoverable by the State Load Despatch Centre shall be accompanied with an application fee of Rs. One Lakh.

(3) The State Load Despatch Centre must prepare an investment plan for a five-year period commencing with the ensuing financial year and must include the sources of funds for investment. The investment plan must be updated every year and filed with the Commission.

(4) If there is a revenue gap between the Expected Revenues from the currently applicable Fee and Charges and the revenue requirement for the ensuing financial year, the State Load Despatch Centre shall include a proposal as to how it proposes to bridge this revenue gap.

28. Information to Generation Companies and Licensees engaged in intra-state transmission of electricity.—(1) After the Commission is provided with the clarifications, the State Load Despatch Centre shall provide copies of the complete application and further clarifications, if any, to the generating companies and the licensees engaged in intra-state transmission of electricity.

(2) The application for determination of 'fees and charges' should be posted at the State Load Despatch Centre website in downloadable format for easy accessibility by all stakeholders.

29. Levy and collection of State Load Despatch Centre charges.—(1) The Generating Companies and the Licensees engaged in intra-state transmission of electricity within the State shall pay to the State Load Despatch Centre Charges the annual charges in monthly instalments in advance.

(2) If the payment is not made within the due date, a penal interest at the rate of two percent per month shall be payable on the unpaid amounts.

(3) Disputes arising out of delay/ non-payment of State Load Despatch Centre Charges shall be, as far as possible, settled by mutual negotiations. If the disputes are not resolved through mutual negotiations within ninety days, the matter shall be referred to the Commission through a petition by either of the parties. The decision of the Commission shall be binding on both the parties.

PART -IV - MISCELLANEOUS

30. Power to Amend.—The Commission may, at any time add, vary, alter, modify or amend any provisions of these regulations.

31. Power to remove difficulties.—In case of any difficulty in giving effect to any of the provisions of these regulations, the Commission may, either suo motu or on an application made to it, do or undertake to do things, or by general or special order direct the licensee to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

32. Issue of orders and directions.—Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and practice directions with regard to the implementation of these regulations and procedure to be followed for such implementation and matters incidental or ancillary thereto.

33. Interpretation.—All issues arising in relation to interpretation of these regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

34. Savings.—(1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.

(2) Nothing in these regulations shall bar the Commission from adopting in conformity with the provisions of the Electricity Act 2003 (36 of 2003) a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

(3) Nothing in these regulations shall, expressly or by implication, bar the Commission dealing with any matter or exercising any power under the Electricity Act 2003 (36 of 2003) for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

By Order of the Commission
Secretary

Himachal Pradesh Electricity Regulatory Commission